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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Robert T. COLE et al.) Examiner: Unassigned
)
Serial No.: 10/668,297) Group Art Unit: 3761
)
Filing Date: September 24, 2003)
)
Title: ABSORBENT PRODUCT LINE AND DEVICE FOR IDENTIFYING
ABSORBENT PRODUCTS

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

PETITION TO MAKE SPECIAL

Applicants hereby petition, pursuant to 37 C.F.R. § 1.102, to make this application special because of actual, current and ongoing infringement of the claims presented in this application. Accompanying this petition is a check in the amount of \$130.00 to cover the fee required under 37 C.F.R. § 1.17(i). In the event it is determined that further fees are due, the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. 50-0206.

06/24/2004 EEKUBAY1 00000012 500206 1066823
01 FC:1460 130.00 DA

The PTO did not receive the following
listed item(s) a check for \$130.00

**STATEMENT BY ATTORNEY IN SUPPORT OF PETITION
TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT**

I, Christopher C. Campbell, am the attorney for the Applicants in this case and, acting on behalf of the Applicants, make the following statements:

1. I have made a rigid comparison of the claims of this application with the packaging of the Poise® product, manufactured by Kimberly-Clark Corporation, Neenah, Wisconsin. Photocopies of the infringing device are provided as Exhibit A.

2. In my opinion, at least claims 1, 4-7, 10-14, 16, 17, 20-22, 24-26, 29-31, 33-36, 39 and 42 of this application are unquestionably infringed by the aforementioned product. A claim chart analysis demonstrating the infringement is provided as Exhibit B.

3. I have also caused to be made a careful and thorough search of the prior art. A search was made on the United States Patent and Trademark Office database (www.USPTO.gov), including issued patents and pre-grant publications, for all years available, according to the following search parameters:

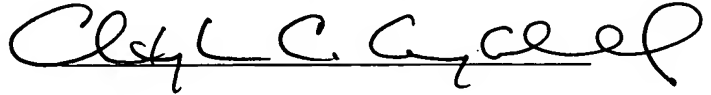
<u>Classes</u>	<u>Subclasses</u>	<u>Search Fields</u>	<u>Search Terms / Restrictions</u>
604, 235	(no restriction)	(all fields)	restricted by the following terms: "device" and ("selector" or "indicator") and ("absorbent article" or "absorbent garment")

All relevant materials identified in these searches are being provided to the Examiner in Information Disclosure Statements filed herewith.

4. I believe that all of the claims in this application are allowable.

Applicants respectfully request the granting of this Petition to Make Special so that the application will be taken up promptly in order to expedite a notice of allowance.

Respectfully submitted,
HUNTON & WILLIAMS LLP

A handwritten signature in cursive script, appearing to read "Christopher C. Campbell", written over a horizontal line.

Christopher C. Campbell
Reg. No. 37,291

Date: June 22, 2004

Hunton & Williams LLP
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Exhibit A

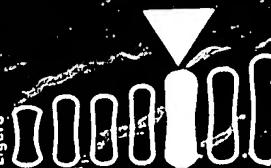
PHOTOCOPIES OF THE INFRINGING DEVICE

Helps Prevent Odors!
Ayuda a prevenir los olores!

EXTRA PLUS



Light / Légère
Ligera



Heavy / Elevée
Elevada

POISE

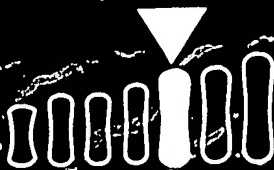
7 pads

Helps Prevent Odors!
Aide à prévenir les odeurs!
¡Ayuda a prevenir los olores!

EXTRA PLUS



Light / Légère
Ligera



Heavy / Elevée
Elevada

POISE[®]

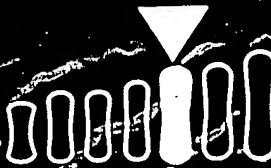
Poids

Helps Prevent Odors!
Aide à prévenir les odeurs!

EXTRA
PLUS



Light / Légère
Ligera



Heavy / Elevée
Elevada

Exhibit B

INFRINGEMENT CLAIM CHART

Patent Claim	Kimberly-Clark Poise® Product Package
1. A visual identification device for absorbent products, the device comprising:	The Poise® package contains a visual identification device on the package.
two or more size designations;	The visual identification device has at least five distinct size designations. Each size designation corresponds to the relative length of the product (as depicted by the product designation).
two or more absorbency designations;	The identification device has seven distinct absorbency designations, varying from "Light" to "Heavy."
two or more absorbent product designations;	The identification device uses seven distinct product designations. Each product designation is a graphic showing an outline of the shape of the product.
an association between each of the two or more absorbent product designations and a combination of one of the size designations and one of the absorbency designations, wherein the association identifies one or more absorbent product designations that are predicted to satisfy a user's fit and absorbency requirements; and	Each product designation is associated with one absorbency designation (within the range from "Light" to "Heavy") and one size designation (the relative length of the product designation), and the association identifies one or more absorbent product designations that are predicted to satisfy a user's fit and absorbency requirements.
wherein the association identifies at least two absorbent product designations that correspond to one of the two or more size designations.	Two pairs of product designations share the same size designation, but have different absorbency designations: (as counted from the top of the device) the second and third product designations, and the fifth and sixth product designations.
4. The visual identification device according to claim 1, wherein at least one of the two or more absorbent product designations comprises a product shape.	Each of the seven product designations is a graphic showing an outline of the product shape.

Patent Claim	Kimberly-Clark Poise® Product Package
5. The visual identification device according to claim 1, wherein each of the absorbent product designations identifies a respective bladder control product.	Each of the seven product designations identifies a respective bladder control product.
6. The visual identification device according to claim 1, wherein the device is selected from the group consisting of a chart, a graphical representation, a table and a list.	The visual identification device on the Poise® product package is a graphical representation.
7. The visual identification device according to claim 1, wherein at least one of the size designations, the absorbency designations, and the absorbent product designations comprises a textual description.	The absorbency designation on the Poise® visual identification device has two textual descriptions: "Light" and "Heavy."
10. The visual identification device according to claim 1, wherein at least a portion of the visual identification device is displayed on a medium selected from the group consisting of: packaging materials, in-store display materials, advertising materials, promotional materials, and any combination thereof.	The Poise® visual identification device is displayed on packaging materials.
11. The visual identification device according to claim 1, wherein the visual identification device is displayed on a package for an absorbent article, the visual identification device further comprising: a content indicator associating one of the two or more absorbent product designations with the absorbent article.	The Poise® visual identification device has two content indicators: (1) the yellow arrowhead pointing at a product designation (the fifth product designation in the device); and (2) a white coloration of the product designation of the product designation (the fifth product designation in the device).
12. The visual identification device according to claim 1, further comprising a content indicator associated with one of the two or more absorbent product designations.	The Poise® visual identification device has two content indicators: (1) the yellow arrowhead pointing at a product designation (the fifth product designation in the device); and (2) a white coloration of the product designation of the product designation (the fifth product designation in the device).

Patent Claim	Kimberly-Clark Poise® Product Package
13. An absorbent product line comprising the visual identification device of claim 1.	The Poise® package and absorbent articles are part of an absorbent product line that utilizes the visual identification device.
14. A graphical representation for absorbent products, the graphical representation comprising: a chart having a size axis and an absorbency axis, the size axis corresponding to size designations, and the absorbency axis corresponding to absorbency designations;	The Poise® package contains a graphical representation for absorbent articles comprising a chart having: (1) a size axis: in the horizontal direction, corresponding to the size designations, <i>i.e.</i> , the length of the absorbent product designations that represent absorbent products; and (2) an absorbency axis: in the vertical direction, corresponding to the absorbency designations, <i>i.e.</i> , the absorbency of the absorbent products represented by the absorbent product designations, ranging from "Light" to "Heavy."
two or more absorbent product designations located on the chart; and	The chart uses seven distinct product designations. Each product designation is a graphic showing an outline of the shape of the product.
an association between each of the two or more absorbent product designations and a combination of one of the size designations and one of the absorbency designations; wherein the association identifies one or more absorbent product designations that are predicted to satisfy a user's fit and absorbency requirements; and	Each product designation is associated with one absorbency designation (within the range from "Light" to "Heavy") and one size designation (the relative length of the product designation as measured on the size axis), and the association identifies one or more absorbent product designations that are predicted to satisfy a user's fit and absorbency requirements.
wherein the association identifies at least two absorbent product designations that correspond to one of the two or more size designations.	Two pairs of product designations share the same size designation, but have different absorbency designations: (as counted from the top of the device) the second and third product designations, and the fifth and sixth product designations.

Patent Claim	Kimberly-Clark Poise® Product Package
16. The graphical representation according to claim 14, wherein each of the absorbent product designations identifies a respective bladder control product.	Each of the seven product designations identifies a respective bladder control product.
17. The graphical representation according to claim 14, wherein at least one of the size designation, the absorbency designation, and the absorbent product designation comprises a textual description.	The absorbency designation on the Poise® graphical representation has two textual descriptions: "Light" and "Heavy."
20. The graphical representation according to claim 14, further comprising a content indicator associated with one of the two or more absorbent product designations.	The Poise® graphical representation has two content indicators associated with one of the two or more absorbent product designations: (1) the yellow arrowhead pointing at a product designation (the fifth product designation in the device); and (2) a white coloration of the product designation of the product designation (the fifth product designation in the device).
21. An absorbent product line comprising the graphical representation of claim 14.	The Poise® package and absorbent articles are part of an absorbent product line that utilizes the visual identification device.
22. A method for marking an absorbent article package, the method comprising: marking two or more absorbent product designations;	The Poise® package has been marked with seven absorbent product designations. Each product designation is a graphic showing an outline of the shape of the product.
marking two or more absorbency designations, wherein each absorbent product designation is associated with one or more absorbency designations;	The Poise® package has been marked with seven distinct absorbency designations, varying from "Light" to "Heavy." Each absorbent product designation is associated with one of the absorbency designations.
marking two or more size designations, wherein each absorbent product designation is associated with one or more size designations,	The Poise® package has been marked with at least five distinct size designations. Each size designation corresponds to the relative length of the product (as depicted by the absorbent product designation).

Patent Claim	Kimberly-Clark Poise® Product Package
and at least one size designation is associated with two or more absorbent product designations associated with different absorbency designations.	Two pairs of product designations marked on the Poise® package share the same size designation, but have different absorbency designations: (as counted from the top of the device) the second and third product designations, and the fifth and sixth product designations.
24. The method according to claim 22, wherein at least one of the two or more absorbent product designations comprises a product shape.	Each of the seven product designations marked on the Poise® package is a graphic showing an outline of the product shape.
25. The method according to claim 22, wherein each of the two or more absorbent product designations identifies a respective bladder control product.	Each of the seven product designations marked on the Poise® package identifies a respective bladder control product.
26. The method according to claim 22, wherein at least one of the size designations, the absorbency designations, and the absorbent product designations comprises a textual description.	The absorbency designations marked on the Poise® package have two textual descriptions: "Light" and "Heavy."
29. The method according to claim 22, further comprising: marking a content indicator associated with one of the two or more absorbent product designations.	The Poise® package has been marked with two content indicators: (1) the yellow arrowhead pointing at a product designation (the fifth product designation in the device); and (2) a white coloration of the product designation of the product designation (the fifth product designation in the device).
30. A package for containing absorbent products comprising: two or more size designations;	The Poise® package contains absorbent products (bladder control products). The package has at least five distinct size designations. Each size designation corresponds to the relative length of the product (as depicted by the absorbent product designation).
two or more absorbency designations;	The Poise® package has seven distinct absorbency designations, varying from "Light" to "Heavy."

Patent Claim	Kimberly-Clark Poise® Product Package
two or more absorbent product designations;	The Poise® package has seven distinct product designations. Each product designation is a graphic showing an outline of the shape of the product.
an association between each of the two or more absorbent product designations and a combination of one of the size designations and one of the absorbency designations, wherein the association identifies one or more absorbent product designations that are predicted to satisfy a user's fit and absorbency requirements; and	Each product designation on the Poise® package is associated with one absorbency designation (within the range from "Light" to "Heavy") and one size designation (the relative length of the product designation), and the association identifies one or more absorbent product designations that are predicted to satisfy a user's fit and absorbency requirements.
wherein the association identifies at least two absorbent product designations that correspond to one of the two or more size designations.	On the Poise® package, two pairs of product designations share the same size designation, but have different absorbency designations: (as counted from the top of the device) the second and third product designations, and the fifth and sixth product designations.
31. The package according to claim 30, further comprising a content indicator that associates one of the absorbent product designations with an absorbent product that is intended to be contained within the package.	The Poise® package has two content indicators that associate : (1) the yellow arrowhead pointing at a product designation (the fifth product designation in the device); and (2) a white coloration of the product designation of the product designation (the fifth product designation in the device).
33. The package according to claim 30, wherein one of the two or more absorbent product designations comprises a product shape.	Each of the seven absorbent product designations on the Poise® package is a graphic showing an outline of the product shape.
34. The package according to claim 30, wherein each of the absorbent product designations identifies a respective bladder control pad.	Each of the seven absorbent product designations on the Poise® package identifies a respective bladder control pad.

Patent Claim	Kimberly-Clark Poise® Product Package
35. The package according to claim 30, wherein the device is selected from the group consisting of: a chart, a graphical representation, a table, a list, and any combination thereof.	The visual identification device on the Poise® product package is a graphical representation.
36. The package according to claim 30, wherein at least one of the size designation, the absorbency designation, and the absorbent product designation comprises a textual description.	The absorbency designations on the Poise® package have two textual descriptions: "Light" and "Heavy."
39. An absorbent product line comprising the package of claim 30.	The Poise® package and absorbent articles are part of an absorbent product line.
42. (as amended) An absorbent product line comprising: two or more absorbent products, whereby each of the two or more absorbent products is characterized by a combination of an absorbency designation and a size designation; and	The Poise® product line, as characterized on the Poise® package, has seven distinct absorbent products, each represented by an absorbent product designation, where each product designation corresponds to and is characterized by a combination of one absorbency designation and one size designation.
each of the two or more absorbent products are characterized by a different combination of absorbency designation and size designation; and	Each of the seven absorbent products in the Poise® product line, as represented by the seven absorbent product designations, has a different absorbency designation, and therefore has a different combination of absorbency designation and size designation.
at least two of the two or more absorbent products are characterized by the same size designation and different absorbency designations.	In the Poise® product line, as characterized on the Poise® package, there are two pairs of product designations that share the same size designation, but have different absorbency designations: (as counted from the top of the device) the second and third product designations, and the fifth and sixth product designations.